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16 Receivable Fund, LP*

17 **IN THE UNITED STATES BANKRUPTCY COURT  
18 FOR THE DISTRICT OF NEVADA**

19 In re:

20 INFINITY CAPITAL MANAGEMENT,  
21 INC.,

22 Debtor.

23 Case No. 21-14486-abl

24 Chapter 7

25 HASELECT-MEDICAL RECEIVABLES  
26 LITIGATION FINANCE FUND  
27 INTERNATIONAL SP,

28 Plaintiff,

Adversary Case No. 21-01167-abl

v.  
29 TECUMSEH-INFINITY MEDICAL  
30 RECEIVABLES FUND, LP,

31 Defendant.

32 **TECUMSEH-INFINITY MEDICAL  
33 RECEIVABLE FUND, LP'S  
34 STATEMENT OF UNDISPUTED FACTS  
35 IN SUPPORT OF MOTION FOR  
36 PARTIAL SUMMARY JUDGMENT AS  
37 TO DIRECT PURCHASE  
38 RECEIVABLES**

39 TECUMSEH-INFINITY MEDICAL  
40 RECEIVABLES FUND, LP,

41 Counter-Claimant,

42 v.  
43 Hearing Requested

44 HASELECT-MEDICAL RECEIVABLES  
45 LITIGATION FINANCE FUND  
46 INTERNATIONAL SP,

47 Counter-Defendant.

1 HASELECT-MEDICAL RECEIVABLES  
 2 LITIGATION FINANCE FUND  
 3 INTERNATIONAL SP,  
 4 Counter-Claimant,  
 5 v.  
 6 TECUMSEH-INFINITY MEDICAL  
 7 RECEIVABLES FUND, LP,  
 8 Counter-Defendant.

9 Pursuant to LR 7056, Defendant and Counterclaimant Tecumseh-Infinity Medical  
 10 Receivable Fund, LP (“**Tecumseh**”) respectfully submits the following statement of undisputed  
 11 facts in support of its *Motion for Partial Summary Judgment as to Direct Purchase Receivables*  
 (the “**Motion**”) [ECF No. 90].

	TECUMSEH’S UNDISPUTED FACTS AND SUPPORTING EVIDENCE	HASELECT’S RESPONSE AND SUPPORTING EVIDENCE	
12	13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	The Debtor was in the business of purchasing receivables from medical providers, which receivables typically arose from medical treatment provided to individuals who were injured in accidents (the “Plaintiff(s)”) who then asserted personal injury claims arising from the accidents (the “Receivables”).  Both volumes of Rule 2004 Transcript of Oliver Hemmer’s testimony are attached hereto as <b>Exhibit A</b> , (“Hemmer Dep. Vol.”);  <i>See Exhibit A, Hemmer Dep. Vol. I at 42:1-46:15; Vol. II at 175:7-179:3.</i>	
		The Receivables were secured by liens against recovery on the personal injury claims; the Debtor only recovered on its Receivables	

	<p>when Plaintiff's personal injury claims were settled.</p> <p><i>See Exhibit A, Hemmer Dep. Vol. II at 44:20-47:3; Hemmer Dep. Vol. II at 176:8; Hemmer Dep. Vol. II at 180:4-183:8.</i></p>	
	<p>The Debtor used proceeds of its loan from HASelect to purchase Receivables on its own account and to fund its operations.</p> <p><i>See Exhibit A, Hemmer Dep. Vol. I at 108:12-109:1.</i></p>	
	<p>Among other things, those Receivables legally and beneficially owned by the Debtor secured the HASelect loan.</p> <p><i>See Exhibit A, Hemmer Dep. Vol. 108:12-109:1; Hemmer Dep. Vol. II at 168:17-169:5.</i></p>	
	<p>HASelect asserts that it is owed \$16,000,543.00 as of September 14, 2021.</p> <p><i>See Main Case, Proof of Claim No. 8-2.</i></p>	
	<p>On October 15, 2021, the Trustee abandoned to HASelect collateral valued by the Debtor at approximately 10 million dollars.</p> <p><i>See Main Case, ECF Nos. 12, 64, and 97.</i></p>	
	<p>This Court has ruled that HASelect may also recover receivables totaling \$3,734,397.25, and concluded that HASelect's position as a "lien creditor" under 11 U.S.C. § 544(a) was superior to any interest held by Tecumseh in those particular Receivables, and therefore, that any interest held by Tecumseh in such receivables was avoided pursuant to 11 U.S.C. § 544(a)</p>	

	<p>See Adv. Case, ECF No. 88.</p>	
1	2 3 4 5 6 7 8	The relationship between Tecumseh and the Debtor was governed by a June 2020 Sub-Advisory Agreement (the “Sub-Advisory Agreement”).  <i>See Declaration of Michael Belotz</i> (the “Belotz Declaration”) ¶ 5, submitted herewith; <i>see also</i> Sub- Advisory Agreement attached hereto as <b>Exhibit B</b> .
9	10 11 12 13 14 15	The Sub-Advisory Agreement generally provided that the Debtor would (i) assist Tecumseh with purchasing the Tecumseh Receivables “directly from the Medical Service Provider” and (ii) service and collect the Tecumseh Receivables.  <i>See Exhibit B, Sub-Advisory Agreement, ¶ 3(b), (e); Belotz Decl. at ¶ 7.</i>
16	17 18 19 20	The Sub-Advisory Agreement called for the Debtor to identify receivables for Tecumseh to purchase and to negotiate a purchase price on Tecumseh’s behalf.  <i>See Exhibit B, Sub-Advisory Agreement at ¶¶ 1(b), 3(a), 3(b).</i>
21	22 23 24 25	The Debtor was also to arrange all of the paperwork necessary to “evidence the sale of the Receivable to [Tecumseh] by the Medical Service Provider.”  <i>See Exhibit B, Sub-Advisory Agreement at ¶ 3(d).</i>
26	27 28	FTM Investments, Inc. (“FTM”) would verify the receivable on behalf of Tecumseh, after which Tecumseh would the approve of the purchase.

	<i>See Belotz Decl., ¶ 10.</i>	
1	Tecumseh then paid the price 2 agreed to by the medical provider 3 along with the fee to the Debtor 4 required by the Sub-Advisory 5 Agreement.  6 <i>See Belotz Decl., ¶ 10.</i>	
7	The process of purchasing a 8 receivable began with a personal 9 injury plaintiff being referred to the 10 Debtor.  11 <i>See Referral</i> , attached hereto as 12 <b>Exhibit C</b> .	
13	Each plaintiff was then assigned a 14 unique ClaimID number by the 15 Debtor.  16 <i>See Exhibit A</i> , Hemmer Dep. Vol. I 17 at 45:15-46:23.	
18	Acting on behalf of Tecumseh, 19 Debtor would provide a 20 preauthorization letter to the 21 medical provider prior to the 22 performance of any authorized 23 service by the provider to the 24 Plaintiff.  25 <i>See Preauthorization Letter</i> , 26 attached hereto as <b>Exhibit D</b> .	
27	Subsequent to the provision of an 28 authorized procedure, Tecumseh would provide payment in a previously agreed upon amount.  <i>See Belotz Decl., ¶ 9-10.</i>	
29	The Debtor retained in its records an HCFA 1500 medical billing claim form (the “Claim Form”) reflecting, among other things, the face amount of each Receivable, and transmitting the Claim Form to the Plaintiff’s counsel of record.  <i>See Claim Form</i> , attached hereto as <b>Exhibit E</b> .	

	<p>1           Each Claim Form represented a  2           distinct Receivable, affiliated with a  3           unique BillID number.  4             5           <i>See Exhibit A, Hemmer Dep. Vol. I</i>  6           <i>at 45:15-46:23.</i></p>	
	<p>5           Each receivable would receive its  6           own unique BillID number, and the  7           Debtor would maintain in its  8           records a corresponding Claim  9           Form, together with evidence of  10          Tecumseh's contemporaneous  11          payment.  12            13          <i>See Exhibit A, Hemmer Dep. Vol. I</i>  14          <i>at 45:15-46; Exhibit E, Claim</i>  15          <i>Form.</i></p>	
	<p>11          To facilitate the purchase of  12          Tecumseh Receivables and  13          collection of proceeds, Tecumseh  14          opened an account with Bank of  15          America (the "BofA Account").  16          Tecumseh funded the BofA  17          Account with money from its  18          investors.  19            20          <i>Belotz Decl., ¶ 11</i></p>	
	<p>17          The receivables purchased by  18          Tecumseh from and after October  19          29, 2020—4,190 receivables at a  20          face amount of approximately  21          \$19,846,621.37 (the "Direct  22          Purchase Receivables")—were paid  23          for with transfers of purchase  24          money directly from Tecumseh's  25          BofA Account to the respective  26          medical providers.  27            28          <i>See Belotz Decl., ¶ 12; see also a</i>  <i>detailed Reconciliation prepared by</i>  <i>Tecumseh attached hereto as</i>  <b><i>Exhibit F,</i></b> <i>and Tecumseh's</i>  <i>collaborating BofA Bank</i>  <i>Statements from October of 2020</i>  <i>through and including September of</i>  <i>2021, attached hereto as Composite</i>  <b><i>Exhibit G.</i></b></p>	
	<p>28          Tecumseh paid for the Direct</p>	

	<p>Purchase Receivables directly from its BofA Account to the medical providers.</p> <p><i>See Belotz Decl., ¶ 13; see also Exhibit F (Reconciliation) and Composite Exhibit G.</i></p>	
5 6 7 8 9 10 11 12 13	<p>Tecumseh paid the Debtor its servicing fee for its work in locating and servicing the Tecumseh Receivables monthly from the BofA Account.</p> <p><i>See Belotz Decl., ¶ 13; see also Exhibit F (Reconciliation) and Composite Exhibit G.</i></p>	
14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>As required by the Sub-Advisory Agreement, the Debtor maintained a log of the Tecumseh Receivables along with any collections on them.</p> <p>Belotz Decl., ¶ 14.</p>	
	<p>Debtor made these records available to Tecumseh on a regular basis through an application known as “Case Manager.”</p> <p>Belotz Decl. ¶ 14.</p>	
14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>In addition, Tecumseh maintained its own records related to the Tecumseh Receivables.</p> <p>Belotz Decl. ¶ 14; <i>see also</i> Exhibit F (Reconciliation) and Composite Exhibit G.</p>	
	<p>The Debtor likewise created a Claim Form for each Direct Purchase Receivable purchased by Tecumseh.</p> <p>Belotz Decl., ¶ 19; <i>see also</i> Claim Form, attached hereto as <b>Exhibit E</b></p>	
	<p>The Debtor also maintained several binders, a segregated compilation of documents, evidencing Tecumseh’s direct payments to medical providers and all</p>	

	<p>corresponding Claim Forms for nearly all of the Direct Purchase Receivables.</p> <p><i>See Exhibit I binders<sup>1</sup></i></p>	
	<p>Each Claim Form represented a distinct receivable, affiliated with a unique BillID number.</p> <p><i>See Exhibit A, Hemmer Dep. Vol. I at 45:15-46:23; see also Exhibit E, Claim Form.</i></p>	
	<p>In October 2020, Tecumseh purchased 92 receivables with a face value of \$828,614.88 for a purchase price of \$142,862.63 and paid the Debtor a fee of \$28,572.52 from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
	<p>In November 2020, Tecumseh purchased 266 receivables with a face value of \$501,921.54 for a purchase price of \$142,862.63 and paid the Debtor a fee of \$28,572.52 from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
	<p>In November 2020, Tecumseh purchased 266 receivables with a face value of \$501,921.54 for a purchase price of \$142,862.63 and paid the Debtor a fee of \$28,572.52 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
	<p>In December 2020, Tecumseh purchased 441 receivables with a face value of \$1,305,197.62 for a purchase price of \$283,162.07 and</p>	

<sup>1</sup> The binders contain PII and HIPPA protected information. Contemporaneously with the filing of this Motion, Tecumseh will be seeking the Court's permission to submit such binders under seal of the Court.

	<p>paid the Debtor a fee of \$56,692.44 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
4 5 6 7	<p>In January 2021, Tecumseh purchased 430 receivables with a face value of \$1,500,807.25 for a purchase price of \$284,325.87 and paid the Debtor a fee of \$56,865.78 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
9 10 11 12 13	<p>In February 2021, Tecumseh purchased 323 receivables with a face value of \$1,248,675.56 for a purchase price of \$321,377.94 and paid the Debtor a fee of \$64,588.45 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
14 15 16 17 18	<p>In March 2021, Tecumseh purchased 412 receivables with a face value of \$2,081,787.17 for a purchase price of \$285,862.33 and paid the Debtor a fee of \$46,100.85 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
19 20 21 22 23	<p>In April 2021, Tecumseh purchased 425 receivables with a face value of \$1,278,990.10 for a purchase price of \$308,721.70 and paid the Debtor a fee of \$33,371.64 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i></p>	
24 25 26 27 28	<p>In May 2021, Tecumseh purchased 582 receivables with a face value of \$2,647,439.26 for a purchase price of \$349,515.96 and paid the Debtor a fee of \$69,903.19 – all paid from its BofA Account.</p> <p><i>See Exhibit F (Reconciliation) and</i></p>	

	Composite Exhibit G (Bank Statements).	
1	In June 2021, Tecumseh purchased 533 receivables with a face value of \$4,233,654.73 for a purchase price of \$539,763.82 and paid the Debtor a fee of \$98,999.89 – all paid from its BofA Account.  <i>See Exhibit F (Reconciliation) and Composite Exhibit G (Bank Statements).</i>	
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	The Debtor's did not possess a beneficial interest in the Direct Purchase Receivables.  <i>See Exhibit A, Hemmer Dep. Vol. II at 173:18-174:4, 174:15-175:3; see also Exhibit B, Sub-Advisory Agreement at ¶¶ 1(b), 3(a), 3(b); Exhibit F (Reconciliation), Composite Exhibit G (Bank Statements), and Exhibit I</i>	
	Debtor's internal records likewise denote which receivables belong to	

	<p>Tecumseh and which receivables belonged to the Debtor and secured HASelect's loan.</p> <p><i>See Exhibit A, Hemmer Dep. Vol. II at 170:24-171:6.</i></p>	
	<p>Tecumseh relayed to its fund administrator the "Bill ID, cost of the receivable, the overhead charge, the total cost, date paid and the type" of receivables "bought since the [time the] last report was generated."</p> <p><i>See Email Correspondence attached hereto as <b>Exhibit H</b>.</i></p>	
	<p>Tecumseh likewise made this information available to its investors on a regular basis, posting publicly available fund reports detailing, among other things, the "date of purchase" together with the "purchase cost" of each Tecumseh Receivable denoted by its "BillID."</p> <p>Belotz Decl. at ¶ 22; see also <a href="http://tecumsehalts.com">Reports (tecumsehalts.com)</a>, last visited 8.26.22.</p>	
	<p>Tecumseh reported its ownership interest and any resulting capital gains and losses to the Internal Revenue Service.</p> <p>Belotz Decl. at ¶ 22.</p>	
	<p>The Debtor's bankruptcy schedules do not claim an ownership interest in Direct Purchase Receivables.</p> <p>See Exhibit A, Hemmer Dep. Vol. II at 173:18-174:4, 174:15-175:3; see also Debtor's Schedules [Main Case, ECF No. 47].</p>	
	<p>All dollars collected on the Tecumseh Receivables were paid directly to Tecumseh and not to the Debtor.</p> <p>Belotz Decl. at ¶ 23; <i>see also</i> Hemmer Dep. Vol. II at 186:18-23.</p>	

1	Under the Sub-Advisory	
2	Agreement, the Debtor received a	
3	20% acquisition fee. The Debtor	
4	earned 10% of the acquisition fee	
5	immediately, and 10% according to	
6	a contingency schedule. The	
7	contingency schedule turned on the	
8	average investor annual rate of	
9	return; the Debtor earned up to 10%	
10	if the annual rate of return exceeded	
11	30%.	
12	See Exhibit A, Sub-Advisory	
13	Agreement, Addendum A, ¶(a)	

Dated this 26th day of August.

Respectfully submitted,

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